



IN REPLY REFER TO

DEFENSE CONTRACT AUDIT AGENCY
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FORT BELVOIR, VA 22060-6219

PSP 730.4.17

17 February 2000
00-PSP-017(R)

MEMORANDUM FOR REGIONAL DIRECTORS, DCAA
DIRECTOR, FIELD DETACHMENT, DCAA

SUBJECT: Audit Guidance on Evaluation of Other Transaction Agreements (OTAs)

This memorandum contains the latest guidance on evaluating other transaction agreements (OTAs). This memorandum supercedes all previous OTA guidance issued, specifically:

- 98-PSP-042(R) Audit Guidance on Evaluation of Other Transactions, dated 25 March 1998;
- 98-PSP-077(R) Audit Guidance on Evaluation of Other Transactions, dated 12 May 1998; and
- 99-PSP-043(R) Audit Guidance on Allowability of Prior Research Effort on Other Transactions, dated 7 April 1999.

BACKGROUND

OTAs are instruments other than contracts, grants, and cooperative agreements that are used to stimulate, support, or acquire research or prototype projects. OTAs were authorized to encourage commercial firms to join with the Department of Defense (DoD) to advance dual-use technology and to broaden the technology and industrial base available to DoD. OTAs are not subject to the requirements of the acquisition regulations established for contracts, including FAR, DFARS, and Cost Accounting Standards (CAS), unless specifically provided for in the OTA. OTAs typically require that the contractor's accounting system comply with generally accepted accounting principles (GAAP) and that the contractor maintain adequate records to account for federal funds received under the agreement.

Congress has authorized the following two types of OTAs:

- Research OTAs – Section 2371
- Prototype OTAs – Section 845

Research OTAs – Section 2371

In 1989, Congress enacted 10 U.S.C. 2371, “Research Projects: Transactions Other Than Contracts,” which authorized the use of OTAs for basic, applied, and advanced research projects. Congress enacted 10 U.S.C. 2371 as a 2-year pilot program for the Defense Advanced Research Projects Agency (DARPA). The National Defense Authorization Act for Fiscal Year (FY) 1991 broadened the authority to include military departments and made the authority permanent. In issuing OTAs, the military departments and defense agencies are required to ensure that DoD funding does not exceed that provided by non-Government parties to the maximum extent practical (i.e., contractors should provide at least 50 percent of the costs for the research project). Specifically, 10 U.S.C. 2371(e)(1)(B) states:

...to the extent that the Secretary determines practicable, the funds provided by the Government under a cooperative agreement containing a clause under subsection (d) [Recovery of Funds] or a transaction authorized by subsection (a) [other transactions] do not exceed the total amount provided by other parties to the cooperative agreement or other transaction.

Section 2371 OTAs may be referred to as “Consortium Agreements” (those issued by DARPA), “Cooperative Agreements Under 10 U.S.C. 2371” (used by the Military Departments), and most recently, Technology Investment Agreements (TIAs). TIAs were originated by the Directorate of Defense, Research and Engineering (DDR&E) and are intended to replace the consortium agreements and cooperative agreements under 10 U.S.C. 2371. There is no significant difference in the types of agreements. OTAs for research may be used when it is not feasible to use a standard contract, grant, or cooperative agreement.

Section 2371 OTAs are usually issued to a consortium consisting of commercial companies (including traditional DoD contractors), not-for-profit companies, and universities. When an OTA is awarded to a consortium, one contractor is designated as the lead to coordinate on behalf of the consortium and takes on the primary administrative responsibility. The lead consortium member will normally serve as the Consortium Program Manager and the Consortium Administrator and performs such functions as preparing the consolidated consortium billings to the government based on the individual billings prepared by the consortium members.

Government financing under a Section 2371 OTA may be based on milestone payments or actual cost incurred. OTA financing based on payable milestones may be structured in a manner that milestones need not be adjusted for actual expenditures (fixed price). Alternatively, the OTA may require that milestones reasonably track with actual cost incurred (cost type).

Prototype OTAs – Section 845

The National Defense Authorization Act for FY 1994, Section 845, augmented the OTA authority to allow DARPA, under a 3-year pilot program, to use the OTA authority for prototype projects directly relevant to weapons or weapon systems. The National Defense Authorization

Act for FY 1997, Section 804, further broadened the authority to include the military departments and other officials designated by the Secretary of Defense. The authority to use OTAs for prototypes was extended until 30 September 2001. A prototype OTA generally does not require cost sharing by the contractor(s), and is usually financed by the government based on milestone payments. Section 845 OTAs are typically not performed by a consortium of contractors. The National Defense Authorization Act for FY 1994 directs that "...to the maximum extent practicable, use competitive procedures when entering into agreements to carry out [prototype] projects."

GUIDANCE (Section 2371s and 845s)

The primary purpose of an OTA evaluation is to apply agreed-upon procedures to determine compliance with the financial aspects of the agreement. In the event the requested scope is significant enough to warrant performing an audit, an opinion may be rendered. Specific objectives of the evaluation typically are to determine whether the contractor's (or consortium of contractors'):

- incurred costs follow the terms of the OTA;
- billed costs comply with the terms of the OTA; and
- cost share (contribution) amounts are being provided in accordance with the terms of the OTA.

OTA Documents

Key documents often included in Section 2371 OTAs, and to a limited extent to Section 845 OTAs, are as follows:

- **Schedule of Payments and Payable Milestones** - generally includes a description of the payable milestones and dates, the consortium contribution amount by milestone, and the government contribution amount;
- **Funding Schedule** - identifies the consortium members and their respective cost sharing amounts by the type of contribution (i.e., cash, IR&D, in-kind); and
- **Business Status Report** - includes status of contributions by consortium members and identifies incurred costs compared to forecasted expenditures identified in the program plan.

Other documents/information considered useful during the evaluation of a Section 2371 or Section 845 OTA may include:

- **Payable Events/Milestones Report** - identifies accomplishment of the payable events/milestones; and

- **Annual Program Plan Document** - includes a description of the forecasted expenditures and describes the payable events/milestones.

This information should be available at the individual consortium member location. However, if the information is not available at the consortium member company, contact the auditor at the lead contractor, or the DCAA auditor at the Defense Contract Management Command (DCMC) Agreement Administration Center (AAC) if the OTA is administered by DCMC, to obtain the information. A DCAA auditor has been assigned at each of the four DCMC AACs (Atlanta, San Diego, Seattle, and Syracuse) to facilitate our evaluations of OTAs administered by those locations. See Enclosure 4 for the DCAA points of contact at the DCMC AACs.

Other information considered useful during the evaluation of both Section 2371 and Section 845 OTAs are as follows:

- **Audit Access clause** – This clause identifies the auditor (i.e., government auditor or independent public accountant (IPA)) that has primary responsibility for evaluating compliance with the OTA and the time period in which an evaluation can be performed. If the audit clause does not provide sufficient access for the auditor to perform the agreed-upon procedures, the auditor should work with the requestor to ensure adequate access is granted. Auditors are also requested to notify DCAA, Headquarters, Special Projects Division, of any access limitations encountered.
- **Financial Management clauses** – These clauses identify the accounting and billing requirements, typically requiring that costs be accounted for in accordance with Generally Accepted Accounting Principles (GAAP). Auditors should be aware that GAAP provides little guidance for accounting for Government contracts. The American Institute of Certified Public Accountants (AICPA) Audit and Accounting Guide titled “Audit of Federal Government Contractors,” Section 2.46, Applicability of GAAP, states:

...GAAP are established for financial accounting purposes and provide little guidance for cost accounting purposes in the government contracting industry. Consequently, GAAP is applied only when no guidance in FAR or CAS exists.

GAAP contains some guidance on cost measurement and assignment, however, it provides no guidance for cost allocations. Auditors should perform sufficient procedures on the contractor’s cost accounting system to assure themselves that the accounting treatment for the OTA results in a fair and equitable allocation of costs.

- **Cost Principles clause** – This clause identifies the cost principles that are applicable to the OTA.

- **Pre-Award Costs clause** – This clause will identify a dollar value and time period under which costs may be incurred to support the OTA prior to the actual signing of the OTA.

If the OTA identifies that an IPA will perform an evaluation, and has done so, the auditor should review CAM 4-1000, Relying on the Work of Others, to adjust the evaluation procedures, as necessary, to build upon the work performed by the IPA to preclude duplication.

Accounting Treatment for OTA

As previously stated, Section 2371 OTAs require that the contractor contribute at least 50 percent of the costs for the OTA (contractor cost share). Although not mandatory, Section 845 OTAs may also require a contractor cost share. All costs incurred in support of the OTA, including both the contractor and government cost share, should be accounted for consistently. OTAs should be accounted for either solely as an IR&D project or solely as direct effort (accounted for similar to a contract). FAR 31.205-18(e), Independent Research and Development and Bid and Proposal Costs – Cooperative arrangements, states that:

IR&D costs may be incurred by contractors working jointly with one or more non-Federal entities pursuant to a cooperative arrangement (for example...consortium arrangements). IR&D costs also may include cost contributed by contractors in performing cooperative research and development agreements, or similar arrangements, entered into under...(iii) 10 U.S.C. 2371 for the Defense Advanced Research Projects Agency; or (iv) Other equivalent authority.

FAR 31.205-18(e) further states:

IR&D costs incurred by a contractor pursuant to these types of cooperative arrangements [other transactions] should be considered as allowable IR&D costs if the work performed would have been allowed as contractor IR&D had there been no cooperative arrangement.

While OTAs are generally not subject to CAS, CAS-covered contracts receiving an allocation of IR&D costs would be affected if a portion of the OTA were accounted for as an IR&D project. CAS 402, Consistency in Allocating Costs Incurred for the Same Purpose, requires that all costs incurred for the same purpose, in like circumstances, are either direct costs only or indirect costs only with respect to the final cost objective. The purpose of CAS 402 is to ensure that each type of cost is allocated only once and on only one basis to any contract or other cost objective. If the contractor accounts for the costs incurred under the OTA as both direct effort (final cost objective accounted for as a contract) and as indirect effort (IR&D project), then the contractor is in noncompliance with CAS 402 (see CAM 7-1508.2.a). (Note: CAM 7-1508 refers to the Technology Reinvestment Program (TRP), which was in existence from 1993

through 1995. Many of the early OTAs were issued under the TRP. Nevertheless, the guidance contained in Section 7-1508 is equally applicable to non-TRP OTAs.) Auditors should follow CAM 8-302.7, Reporting Noncompliance, when deciding whether to report the noncompliance.

Recently, we have been informed that various contractors have attempted to enter into advance agreements regarding their accounting treatment of the OTA as it relates to CAS 402 requirements. Contractor requests for an advance agreement should be coordinated with the cognizant regional office and the DCAA auditor at the cognizant DCMC AAC. Refer to CAM 7-1508.4, Advance Agreements (IR&D and B&P) and CAM 6-710, Indirect Costs Advance Agreements, for advance agreements encountered during OTA evaluations or annual incurred cost audits, respectively.

Cost Share

The auditor should verify that the amount claimed as cost share, whether it is cash or in-kind contributions, only include cost incurred after the date of the OTA, unless pre-agreement costs were authorized under the agreement. Costs incurred prior to entering into an OTA are unacceptable for satisfying the contractor's required cost share. Notwithstanding this requirement, costs incurred under current Government-funded research and development contracts, grants, or cooperative agreements, such as awards made by NASA, are also unacceptable for satisfying the contractor's cost share.

In addition, a contractor's claim of an indirect expense as part of its cost share, separate and distinct from any appropriate indirect expense allocation to that OTA, is also considered to be unacceptable for satisfying required cost share. A final cost objective must have charged to it (1) all of its direct costs, and (2) its allocable share of indirect costs. The specific indirect expense claimed as cost share would represent double counting, once as an indirect expense being allocated to all contracts, and again (while not booked) as a direct cost to the OTA.

In-Kind Contributions

The DoD Grant and Agreement Regulations (DoDGARs), DoD 3210.6-R, Part 34 – Administrative Requirements for Grants and Agreements With For-Profit Organizations, dated 13 April 1998, identifies that in-kind contributions:

...may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.

The auditor should apply procedures to evaluate the valuation of the in-kind contributions and determine if they are reasonable and/or allowable. This may require the assistance of technical personnel. The auditor also needs to verify that these in-kind costs are not being claimed as a cost (either direct or indirect) on any other DoD contracts, grants, or cooperative

agreements. Furthermore, the auditor should verify that any in-kind contributions were used on the OTA. This may also require that technical assistance be requested.

We are also providing specific guidance on two types of in-kind contributions that are considered to be unacceptable for satisfying the contractor's required cost share, specifically, indirect expense and prior IR&D costs.

Indirect Expense – As previously stated, the contractor may not claim an indirect expense, that which is appropriately assignable to other cost objectives, as a direct cost to the OTA. An example would be if the contractor claims depreciation expense on a current asset being used on the OTA as a direct cost to the OTA. Another example would be the contractor claiming manufacturing product support as a direct cost, typically an indirect expense allocable to the programs using that specific production line. In both cases, a contractor's claim of an indirect expense as its cost share, separate and distinct from any appropriate indirect expense allocation to that OTA, will represent unacceptable cost share.

While the contractor may not claim as cost share costs appropriately assignable to another cost objective as a direct or indirect expense, such as depreciation expense on a current asset, the contractor may claim a usage fee on fully depreciated equipment. FAR 31.205-11(l), Depreciation, states:

No depreciation or rental shall be allowed on property fully depreciated by the contractor or by any division, subsidiary, or affiliate of the contractor under common control. However, a reasonable charge for using fully depreciated property may be agreed upon and allowed. In determining the charge, consideration should be given to cost, total estimated useful life at the time of negotiations, effect of any increased maintenance charges or decreased efficiency due to age, and the amount of depreciation previously charged to Government contracts or subcontracts (emphasis added).

Prior IR&D Cost – Cost incurred prior to the contractor being awarded the OTA are unallowable. This would include prior IR&D costs. On 13 May 1996, the Senate Armed Services Committee specifically addressed this issue in the U.S. Senate Report No. 104-267, addressing Research Projects: Transactions Other Than Contracts and Grants under the National Defense Authorization Act for Fiscal Year 1997). The report stated:

*...the committee intended that the sunk cost of **prior research efforts not count as cost-share** on the part of the private sector firms. Only the additional resources provided by the private sector needed to carry out the specific project should be counted* (emphasis added).

In addition, on 2 December 1998, the Director of Defense Research and Engineering (DDR&E) issued guidance on Section 2371 OTAs stating:

*Agreements officers **shall not count the recipient's costs of prior research as cost share.** Only the additional resources that will be provided by the recipient to carry out the current project are to be counted (emphasis added).*

Similarly, a DoD Working Group developed the Guide for Section 845 OTAs for prototype projects, dated November 1998, which stated:

*Agreements officers **should not count the cost of prior research as private sector cost share.** Only the additional resources provided by the private sector and needed to carry out the prototype project should be counted (emphasis added).*

Federal Acquisition Regulations (FAR) / DFARS

OTAs are generally not subject to FAR or DFARS. However, if the contractor accounts for the OTA as an IR&D project and allocates those costs to government contracts, the costs must comply with applicable FAR and DFARS provisions (see CAM 7-1501). Therefore, as part of the incurred cost audit of IR&D/B&P, auditors should ensure that any unallowable costs identified through this evaluation that are included in the IR&D pool have been properly segregated and have not been reimbursed under government contracts (see CAM 7-1508.2.b). In addition, auditors, as part of the evaluation of a specific OTA, should ensure that the contractor equitably accounts for the government payments as a credit to the IR&D account and should verify that only allowable unreimbursed IR&D costs are allocated to government contracts (see CAM 7-1508.3).

Accounting Practices Used on OTA

OTAs are sometimes awarded to contractors that already do substantial business with DoD. While it is presumed that the contractor will utilize the same accounting system used for government contracts for the OTA, the evaluation procedures should determine if the same system was used. The auditor should perform the necessary steps to determine if incurred costs (i.e., direct labor, material, other direct costs, and indirect rates) were accounted for using the same accounting practices used to account for DoD contracts. Limited steps should be performed to determine the potential cost impact on other government contracts if the contractor did not use its normal accounting practices (i.e., contractor did not use DoD approved indirect rates for the OTA).

OTA Billings

As previously stated, Section 2371 OTA billings are either based on payable events/milestones or on actual cost incurred. Section 845 OTA billings are typically based on

payable milestones. Under payable milestones, the consortium is entitled to bill for the milestone payment identified in the Schedule of Payments and Payable Milestones when it accomplishes an identified milestone. Depending on how the OTA is structured, these milestone payments may or may not be subject to adjustment based on actual cost incurred. If the milestone payment schedule is subject to adjustment based on actual cost incurred, the auditor should compare billed costs by milestone to incurred costs by milestone, if possible, to determine if any significant differences exist. The auditor should also compare total billed costs to total incurred costs to determine if there is any significant difference in total. In the event that incurred costs differ significantly from the milestone payment amount the Agreement Administrator may adjust future milestone payment amounts. Regardless of whether the milestone payment is subject to adjustment, the auditor should confirm, on a selective basis, that the milestone was accomplished and accepted by the Government prior to the milestone being billed.

When evaluating a Section 2371 OTA or Section 845 OTA, the auditor should verify that the contractor used its DoD provisionally approved overhead rates, and when available, final negotiated overhead rates to report/record indirect costs. Auditors should determine, to the extent possible, the cost impact to the Government of not using the DoD approved rates.

Pre Award Evaluations

In the event the auditor is requested to perform an evaluation of a preaward OTA proposal, the evaluation of the overhead rates should include an analysis of the contractor's anticipated workload. Depending on the significance of the proposed OTA, the auditor should verify that the contractor has included the impact of the OTA on its proposed overhead rates. The auditor should also comment on the proposed accounting treatment for the OTA and identify whether the contractor estimated the OTA costs in accordance with its procedures used to estimate costs on its DoD contracts. When the contractor estimates an OTA as both an IR&D project and a contract, the guidance at CAM 8-302.7 for citing a CAS 402 noncompliance should be followed.

Additional Areas for Evaluation

In addition to those areas identified above, the auditor may be requested to perform other evaluation steps unique to the specific OTA. Enclosure 1 identifies various additional areas that auditors may be requested to evaluate.

Evaluation Program

Enclosure 2 is a standardized program for performing agreed-upon procedure evaluations of both Section 2371 and 845 OTAs. Regardless of the type of OTA being evaluated, the program should be tailored to meet the specific objectives of the evaluation to be performed. Additional tailoring will be required if it is determined that an audit will be performed.

Reporting

As stated, we are typically requested to perform agreed-upon-procedure evaluations on OTAs. As such, we would disclaim an opinion. We have prepared a report shell to be used for reporting the results of the application of the agreed-upon procedures, for both Section 2371 and Section 845 OTAs (see Enclosure 3). This report shell should be modified, as appropriate, to reflect the scope and results of the evaluation being performed.

Coordination with DCAA Auditors at DCMC AACs

When performing an evaluation of an OTA administered by a DCMC AAC (Atlanta, San Diego, Seattle, or Syracuse), we recommend that you coordinate with the DCAA point of contact cognizant of that DCMC location to gain additional insight into the specific OTA being evaluated. In addition, we request that you provide the DCAA representative with a copy of the agreed-upon procedures evaluation report.

CONCLUDING REMARKS

If you have any questions related to this guidance, please contact Terry Schneider, Program Manager, Special Projects Division at (703) 767-3290, by fax at (703) 767-3234, or by e-mail at dcaa-psp@dcaa.mil.

/Signed/

Lawrence P. Uhlfelder
Assistant Director
Policy and Plans

Enclosures
(a/s)

DISTRIBUTION: C

Additional Areas for Evaluation Other Transaction Agreements (OTAs)

In addition to the detailed discussion of OTA evaluation areas identified in the MRD, auditors may be requested to perform any of the following steps. This list is not all-inclusive and evaluation procedures may be requested that are not identified here.

- **Accounting Changes** – Consider the impact of a contractor reclassifying OTA costs (i.e., direct to indirect), possibly as a result of an inconsistent accounting treatment of the OTA costs. This reclassification may result in a cost impact on DoD contracts.
- **Compliance with Other Regulations** – Verify that contractor's treatment of OTA is in accordance with OMB Circular A-110 or A-133, and DoD Directive 3210.6-R, Department of Defense Grant and Agreement Regulations (DoDGARs).
- **Consortium-Lead Costs** – Verify that the consortium lead is not separately charging its administrative costs to the OTA, unless specifically provided for. These costs are usually considered to be an indirect expense. In addition, the lead should not be allocating these costs to the lower level consortium members. If the inclusion of the OTA administrative costs in the indirect cost pool results in a disproportionate allocation of indirect costs, then a special allocation in accordance with CAS 418, Allocation of Direct and Indirect Costs, may be appropriate.
- **Cost Savings or Other Benefits Achieved** – Inquire of the contractor whether any cost savings or other benefits were achieved as a result of being granted statutory/regulatory relief under the OTA.
- **Facilities Capital Cost of Money (FCCOM)** – Verify that the contractor is not inappropriately claiming FCCOM when it was not proposed for in its preaward proposal.
- **General & Administrative (G&A) Costs** – Compare the proposed accounting treatment for the OTA to the actual treatment being used. The contractor may have proposed all or a portion of the OTA as IR&D effort. The contractor would not have applied G&A expenses to those costs. However, the contractor may be accounting for the OTA costs as a contract and is applying G&A.
- **Government Property** – Verify the existence of government property.
- **Interest** – Identify whether the lead consortium member has received interest on government funds, and if so, whether it was subsequently paid back to the government. In certain OTAs, there is a stipulation that interest should not be earned on the government funds. This would result from the government paying out funds to the lead consortium member, who in turn does not pay out the funds to the consortium members on a timely basis.
- **Profit** – Verify whether the contractor is inappropriately applying profit to the Section 2371 OTA. Profit is normally not provided for under a Section 2371 OTA for basic, applied, and advanced research.

- **Program Income** – Verify that income from such sources as royalties on patents and copyrights is being credited to the agreement.
- **Special Clauses** – Review the OTA for any special clauses.
- **Termination** – Perform an evaluation on a terminated OTA.

**Defense Contract Audit Agency
Evaluation Program for Other Transaction Agreements (OTAs)
Awarded to DoD Contractors**

Contractor's Name: _____

Assignment Number: _____

Field Audit Office: _____

Supervisor's Approval of Program: _____ Date: _____

A. PURPOSE

The purpose of the evaluation is to determine if the contractor's (or consortium of contractor's): (1) incurred costs follow the terms of the OTA; (2) billed costs comply with the terms of the OTA; and (3) cost share (contribution) amounts are being provided in accordance with the OTA and have not been directly or indirectly billed to the Government. [*Modify purpose, as appropriate, to fit the type of OTA being evaluated and the terms of the OTA.*] The evaluation will be an agreed-upon procedures engagement performed in accordance with applicable Government Auditing Standards and the AICPA Professional Standards.

<u>Staff Hours</u>			<u>Auditor's</u>
<u>Bud-</u>	<u>Act-</u>	<u>W/P</u>	<u>Initials</u>
<u>get</u>	<u>ual</u>	<u>Ref.</u>	<u>and Date</u>
			<u>Completed</u>

B. PRELIMINARY STEPS

1. Brief the OTA and identify key clauses affecting costs and audit access.

2. Conduct entrance conference with the contractor. Prepare/obtain a schedule from the contractor identifying incurred cost (including contractor cost share) and billed cost.

3. Request the contractor to explain accounting treatment for OTA. Have contractor identify how OTA costs were accounted for, to include both government and contractor cost share (e.g., OTA treated as a contract or IR&D).

C. FIELD WORK

1. Verify incurred cost (including contractor's cost share) to the contractor's books and records. Verify that claimed costs were not incurred prior to OTA, unless pre-agreement costs were authorized.

2. If the OTA allows the contractor to make other than cash contributions, determine if these contributions are being provided. Evaluate valuation of in-kind contributions and determine if reasonable. Verify that the in-kind was used on the OTA.

Defense Contract Audit Agency
Evaluation Program for Other Transaction Agreements (OTAs)
Awarded to DoD Contractors

<u>Staff Hours</u>			Auditor's
<u>Bud-</u>	<u>Act-</u>	<u>W/P</u>	Initials
<u>get</u>	<u>ual</u>	<u>Ref.</u>	and Date
			<u>Completed</u>

3. Determine the basis for the indirect expense rates applied. Consider status of final incurred cost audits. If DoD provisionally approved rates or final negotiated rates were not used, calculate a general dollar magnitude of the difference.

4. Determine if the contractor applied its normal accounting practices used for DoD contracts or IR&D projects to the OTA. If not, determine what practices were used. If possible, determine cost impact of not using normal accounting practices.

5. Consider any potential CAS 402 noncompliance issues relative to contractor's accounting treatment of OTA. Follow CAM 8-302.7 when deciding whether to issue a CAS 402 noncompliance.

6. Determine if billings were prepared in accordance with the terms of the OTA.

7. If OTA is accounted for as an IR&D project, determine if Government payments received are credited to an IR&D account.

8. Compare billed costs, incurred costs, and those costs reported in the various required OTA reporting documents.

D. CONCLUDING STEPS

1. Summarize the results of the performance of the agreed-upon-procedures and prepare the draft report. Discuss results with supervisor and obtain final supervisory review. Coordinate significant issues with the requestor.

2. Hold an exit conference with the contractor in accordance with CAM 4-304. Provide the draft report and discuss each exception/finding with the contractor and request a response for inclusion in the final report. Incorporate contractor's response and prepare the final report.

3. If the evaluation discloses information that raises reasonable suspicion of fraudulent or other illegal acts, refer the matter by completing DCAA Form 2000 (see CAM 4-702).

4. Update permanent files as needed.

FOR EXAMPLE ONLY
Report Shell (Other Transaction Agreement)
DEFENSE CONTRACT AUDIT AGENCY
REPORT NO. XXXX-XXXX[X]17900XXX

[Date]

PREPARED FOR: [Requestor]
ATTN: [Name]
[Address]

PREPARED BY: [FAO Name]
[FAO Address]
Telephone No.
FAX No.
E-mail Address dcaa-fao[XXXX]@dcaa.mil

SUBJECT: Application of Agreed-Upon Procedures
[Contractor Name]
Evaluation of [Other Transaction Program Name]
Other Transaction No. [Number]

REFERENCES: [Include requestor information]

CONTRACTOR: [Contractor Name]
[Contractor Address]

REPORT RELEASE RESTRICTIONS: See Page [number]

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CONTENTS: Subject of Application of Agreed-Upon Procedures
Scope of Application of Agreed-Upon Procedures
Results of Application of Agreed-Upon Procedures
Contractor Organization and Systems
DCAA Personnel and Report Authorization
Report Distribution and Restrictions
Appendix

FOR OFFICIAL USE ONLY

ENCLOSURE 3
Page 1 of 8

FOR EXAMPLE ONLY
Report Shell (Other Transaction Agreement)

Report No. XXXX-XXXX[X]17900XXX

SUBJECT OF APPLICATION OF AGREED-UPON PROCEDURES

As requested by the [*requestor*] in a memorandum dated [*date*], reference [*case number*], and as discussed subsequently with your office, we applied agreed-upon procedures to the books and records of [*contractor name*] for [*period evaluated*] for Other Transaction Agreement (OTA) No. [*number*]. The purpose of our engagement was to evaluate the financial and cost aspects of, and determine compliance with, the terms and conditions of the OTA.

[If a Section 2371 OTA:]

[*Consortium Name*] was awarded OTA No. [*number*] by the [*buying command*] on [*date*]. [*Contractor name*] is member of the consortium. The OTA was awarded under the authority of 10 U.S.C. Section 2371, Research Projects: Transactions Other Than Contracts and Grants, [and 10 U.S.C. Section 2511, Defense Dual Use Critical Technology Program (*include appropriate references*)].

[If a Section 845 OTA:]

[*Prime contractor name*] was awarded OTA No. [*number*] by the [*buying command*] on [*date*]. [*Subcontractor name*] is performing significant subcontract effort under the subject OTA. The OTA was awarded under the authority of 10 U.S.C. Section 2371, Research Projects: Transactions Other Than Contracts and Grants, [and Section 845 of the FY 1994 National Defense Authorization Act (P.L. 103-160) – Authority of the Advanced Research Projects Agency to Carry Out Certain Prototype Projects (*include appropriate references*)].

The total value of the OTA is \$[*amount*]. The government is to provide \$[*amount*] in funding, and the [*consortium or contractor(s)*] will provide \$[*amount*]. Of the total value, [*(sub)contractor name*] is scheduled to receive \$[*amount*] in government funding and is responsible for providing \$[*amount*] in cost share, for a total value of \$[*amount*]. The period of performance for this OTA is [*date*] through [*date*].

SCOPE OF APPLICATION OF AGREED-UPON PROCEDURES

We have performed the mutually agreed upon procedures enumerated below to assist you in evaluating the financial aspects and compliance with the terms of the OTA. This agreed-upon procedure engagement was performed in accordance with generally accepted government auditing standards. The sufficiency of the procedures is solely the responsibility of the requestor. Consequently, DCAA makes no representation regarding the sufficiency of the procedures described below, either for the purpose for which this report has been requested or for any other purpose.

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ENCLOSURE 3
Page 2 of 8

FOR EXAMPLE ONLY
Report Shell (Other Transaction Agreement)

Report No. XXXX-XXXX[X]17900XXX

The terms of the OTA include requirements that: *[modify as appropriate]*

- consortium member contributions be provided as detailed in the Funding Schedule;
- costs be accounted for in accordance with Generally Accepted Accounting Principles;
- billings be prepared in accordance with the Schedule of Payments and Payable Milestones; and
- total incurred costs, representing both the consortium cost share and government cost share, reconcile to the value of the OTA upon completion of the OTA.

The following agreed-upon procedures were applied: *[modify as appropriate]*

- We determined the accounting practices and accounting treatment applied to the OTA;
- We verified incurred costs and billed amounts as of *[date]*; and
- We reconciled incurred costs to amounts reported in the Business Report.

RESTRICTIONS ON PROCEDURES: *[include as appropriate – see CAM 10-1008]*

RESULTS OF APPLICATION OF AGREED-UPON PROCEDURES

This report pertains only to the performance of agreed-upon procedures to evaluate the financial aspects and compliance with the terms of the OTA. We were not engaged to, and did not, perform an audit, the objective of which would be the expression of an opinion on the subject matter of this report. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

The application of agreed-upon procedures disclosed the following:

1. *[Describe the contractor's accounting treatment for the OTA (i.e., contract, IR&D project, or combination). Identify whether the accounting practices used were the same as those used to account for DoD contracts and IR&D projects. Describe any deviations identified and the estimated cost impact. Identify whether the contractor's accounting system complies with generally accepted accounting practices (GAAP). Provide comments on whether accounting treatment is in accordance with the terms of the OTA. If the contractor accounts for the OTA as an IR&D project, identify whether Government payments were credited to the IR&D account. Identify whether the contractor is in noncompliance with CAS 402 with respect to its CAS covered contracts and whether the cost treatment results in a material cost impact. Use a note similar to the following:]*

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[**Contractor name**] accounted for the incurred costs under the OTA in more than one manner. Specifically, [**contractor name**] recorded and accumulated the government cost share portion as a direct charge similar to its government contracts. Conversely, [**Contractor name**] recorded and accumulated its cost share portion under independent, research and development (IR&D) project numbers.

While OTAs are not subject to Cost Accounting Standards (CAS), CAS-covered contracts receiving an allocation of IR&D costs would be affected by dissimilar treatment of OTA costs. CAS 402 requires that all cost incurred for the same purpose, in like circumstances, are either direct costs only or indirect costs only with respect to the final cost objective. If the contractor accounts for cost incurred under this OTA as both a final cost objective (direct) and as IR&D (indirect), then the contractor is in noncompliance with CAS 402. Our calculation of the cost impact resulting from this noncompliance on [**contractor's name**] CAS covered contracts, through the period reported, is not considered significant, nor is it expected to be significant in the future. Accordingly, we are not citing the contractor for noncompliance with CAS 402.

2. [Identify, as of a specific date established for entire consortium (if more than one consortium member is being evaluated concurrently under a Section 2371 OTA, or the prime and subcontractors are being evaluated concurrently under a Section 845 OTA) total incurred costs, contractor cost share, and government cost share as recorded in the contractors books and records. Identify the categories of contractor cost share, such as cash and the specific types of in-kind contributions. Use the following format:]

Cost Recorded [as of specific date]

Contractor Cost Share

Cash

\$[*amount*]

In-kind Contributions

[*identify specific types of*

in-kind contributions (i.e., IR&D)]

\$[*amount*]

Total Contractor Cost Share

\$[*amount*]

Government Cost Share

\$[*amount*]

Total Incurred Cost

\$[*amount*]

[Identify the basis of indirect rates used to report incurred costs (actual rates, forward pricing rates, DoD provisionally approved billing rates, negotiated overhead rates, etc.). If the contractor reports incurred costs using actual rates (or any rates other than DoD approved rates), identify the dollar difference between the rates used and DoD approved rates. If the contractor claimed non-cash in-kind contributions, identify here and provide a

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description of procedures used to evaluate claimed amount. Identify any costs claimed prior to the agreement date as being unacceptable for satisfying the required cost share (unless provided for as pre-agreement costs). Also, identify any costs claimed that are currently being claimed as either direct or indirect costs on other government contracts.]

3. *[Provide comments on billings. Identify whether the billings were prepared in accordance with the terms of the OTA. Identify whether the billings were prepared based on payable milestones or actual cost incurred. Identify the billed amount and eligible amount based on payable milestones. Use a note similar to the following:]*

As of [***date***], the contractor billed payable milestones of [***amount***]. Our evaluation disclosed that for the same period the contractor was eligible to bill [***amount***] based on completed payable milestones.

4. *[Perform a reconciliation of cost recorded to cost reported in the Business Report. Evaluate and report on any differences. Include a note similar to:]*

The contractor reported incurred cost of [***amount***] in the Business Report dated [***date***]. This agrees with the [***amount***] recorded in the contractor's accounting records.”]

[Include notes, as appropriate, on any other evaluation procedures performed.]

We provided and discussed the results of this application of agreed-upon-procedures with [***name and title of contractor representative***] on [***date***]. We have included [***contractor's name***] response in Appendix [***number***], page [***number***].

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CONTRACTOR ORGANIZATION AND SYSTEMS

[The details of this section are omitted for this report, however, this section should be included in
the report.]

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DCAA PERSONNEL

Primary contacts regarding this report:

Telephone Number

Other contacts regarding this report:

FAX No.

E-mail Address

General information on audit matters is available at <http://www.dcaa.mil>.

RELEVANT DATES

Request for Agreed-Upon Procedures: [*Requestor*] – dated [*date*]; received [*date*].

APPLICATION OF AGREED-UPON PROCEDURES REPORT AUTHORIZED BY:

[*FAO Manager*]
[*Title*]
DCAA [*FAO*]

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REPORT DISTRIBUTION AND RESTRICTIONS

DISTRIBUTION

[List names and addresses as shown on cover page, as well as any other names and addresses to which the report is being distributed, include e-mail addresses.]

RESTRICTIONS

1. Information contained in this report may be proprietary. It is not practical to identify during the conduct of the evaluation those elements of the data which are proprietary. Make proprietary determinations in the event of an external request for access. Consider the restrictions of 18 U.S.C. 1905 before releasing this information to the public.
2. Under the provisions of Title 32, Code of Federal Regulations, Part 290.7(b), DCAA will refer any Freedom of Information Act requests for reports received to the cognizant contracting agency for determination as to releasability and a direct response to the requestor.
3. *[Use the following language for consortium member contractors or subcontractors only – not the consortium lead/prime contractor.]*

[Contractor name] does not object to the release of this report to authorized representatives of *[consortium lead/prime contractor name]*. See Appendix *[number]* for a copy of the subcontractor's release statement. *[See CAM 10-212.3d if the (sub)contractor objects to the release of all or any part of the report information].*

4. This report was prepared using procedures agreed upon by the requestor. The reported findings do not include an audit opinion. The information contained in this report is intended solely for the use of the identified recipients, and should not be used by them or by others for any purpose other than that for which the procedures were established.

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